

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:17-cr-0104-JMS-TAB
	)	
CHRISTOPHER WAYNE ABNEY,	)	- 01
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

On September 21, 2021, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on August 4, 2021. Defendant Abney appeared in person with his appointed counsel Joseph Cleary. The government appeared by Barry Glickman, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Andrea Hillgoth.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Abney of his rights and provided him with a copy of the petition. Defendant Abney orally waived his right to a preliminary hearing.

2. After being placed under oath, Defendant Abney admitted violation number 1.  
[Docket No. 13.]

3. The allegation to which Defendant admitted, as fully set forth in the petition, is:

**Violation  
Number**

**Nature of Noncompliance**

- 1        **“The defendant shall not use illegal drugs, shall not associate with drug users and drug sellers and shall submit to random drug testing, at the defendant's own expense through participation in a co-payment program administered by the probation office, beginning within fifteen days of placement on supervision and at least sixty periodic drug tests annually thereafter, as approved and directed by the probation officer, to determine whether the defendant has reverted to the use of illegal drugs. The probation office may utilize the Administrative Office of the United States Court's phased collection process.”**

On July 14, 2021, the offender submitted to a urine sample with tested positive for amphetamines, cannabinoids, and opiates. He admitted to using marijuana, hydrocodone, and suboxone within recent days. The offender did provide a prescription for Adderall.

As previously reported to the Court, the offender provided positive urine samples on the following dates: April 20, 2021 (Opiates), April 27, 2021 (Amphetamine, Cannabinoids, and Opiates), May 20, 2021 (Amphetamine, Cannabinoids, and Opiates), and June 22, 2021 (Cannabinoids and Opiates).

4.        The parties stipulated that:
- (a)        The highest grade of violation is a Grade B violation.
  - (b)        Defendant’s criminal history category is VI.
  - (c)        The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 27 months’ imprisonment.

5.        The parties jointly recommended a modification to include 120 days at a Residential Reentry Center.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be modified as follows:

1. You shall report to the probation office in the district to which you are released within 72 hours of release from the custody of the Bureau of Prisons.

2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.
4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.
6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in residence occupants, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.
13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.

Justification: Conditions 1-13 are considered administrative in nature and will enable the probation officer to effectively supervise the offender within the community.

14. You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.
15. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.
16. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.
17. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

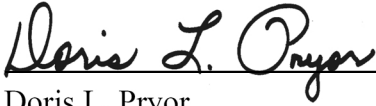
Justification: Conditions 14-17 are recommended based on the offender's history of substance abuse.

Defendant reviewed the foregoing conditions and they were reviewed by defendant with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release. In addition to the above noted conditions, the following was read into the record:

18. You shall reside in a residential reentry center for a term of 120 days. You shall abide by the rules and regulations of the facility.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 9/24/2021

  
Doris L. Pryor  
United States Magistrate Judge  
Southern District of Indiana

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